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## Iowa Department of Justice

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September 25, 2009

Ms. Janet Lyness  
Johnson County Attorney  
417 S. Clinton  
P.O. Box 2450  
Iowa City, IA 52240-2450

RE: John Bior Deng death investigation

Dear Ms. Lyness:

On the evening of July 24, 2009, Johnson County Deputy Sheriff Terry Stotler, while on duty, and in the line of duty, shot and killed John Bior Deng. That same evening, an investigation of this incident was initiated by the Iowa City Police Department, assisted by the Iowa Division of Criminal Investigation.

On July 27, 2009, you referred this matter to the Attorney General. During the ensuing days and weeks, we have consulted with the investigating detectives, visited the scene of the shooting, and reviewed a variety of investigative materials including videotaped interviews, witness statements, reports of interviews, transcripts of interviews, 911 audiotapes, squad car videos, an autopsy report, and crime lab reports. This week we received a final written report and final briefing on the results of the investigation. Today we report our findings and conclusions.

### THE INCIDENT

Deputy Terry Stotler's assignment is "civil deputy." His duties consist primarily of serving civil process papers throughout Johnson County. As required, Deputy Stotler drives an unmarked sheriff's vehicle and works in plain clothes. He wears a fanny pack in which he carries a cell phone, a department-issued handgun and a wallet containing his badge and identification.

Shortly after 7:00 p.m. on Friday, July 24, 2009, Deputy Stotler attempted service of process at an address on South Lucas Street in Iowa City. He then left that location to travel back to the Sheriff's Office by the most direct route via Bowery, Gilbert, and Prentiss Streets.

Proceeding west-bound, downhill on Prentiss from Gilbert at approximately 7:15 p.m., Deputy Stotler observed persons standing on either side of Prentiss Street. On the deputy's left he saw two adult males engaged in a physical altercation in the parking area immediately in front of City Electric, a business located at 315 E. Prentiss Street. He observed a white male (later identified as John Bohnenkamp) with a large blood stain on his shirt and a black male (later identified as John Deng) with a knife in his hand. Deputy Stotler executed a U-turn. As he turned, he radioed a report to the Johnson County dispatcher stating that he was dealing with a fight at that location. He parked and exited his car. He removed his handgun and yelled, "Sheriff's Office!" as he approached the two individuals.

While Deputy Stotler was attempting service of process on South Lucas Street, John Bohnenkamp and his wife were exiting Hawkeye Hideaway, a tavern on Prentiss Street. They walked across Prentiss Street to the area in front of City Electric where the Bohnenkamps' vehicle was parked. At that same time, John Deng was walking across the street in the same direction, approximately half a block to the east of the Bohnenkamps, carrying four garbage bags filled with empty cans and bottles.

As Deng walked across the street, bottles began to spill from one of his bags. Bohnenkamp noticed this and shouted at Deng. He approached Deng, complained about the bottles spilled on the street, and told Deng to pick them up. The two confronted one another. Deng opened a small knife. A brief argument escalated into a physical confrontation. During this altercation, Deng stabbed Bohnenkamp in the left shoulder, causing profuse bleeding.

As the two fought, Mrs. Bohnenkamp shouted at her husband to leave. Meanwhile, a crowd began to gather from all directions, attracted by the altercation. It was at this point that Deputy Stotler arrived.

Under questioning by detectives from the DCI and Iowa City Police Department, in an interview that took place later the same evening, Deputy Stotler gave the following account of the ensuing events:

Deputy Stotler's attention was focused primarily on the man with the knife. He observed blood on the blade of the knife. Deng's fist was clenched around the handle of the knife, with the blade pointed toward Bohnenkamp.

Deputy Stotler aimed his handgun at Deng and shouted, "Sheriff's Office! Drop the weapon!" or "Sheriff's Office! Drop the knife!" He then repeated the order. A woman standing nearby was screaming at Bohnenkamp to run. Deputy Stotler glanced at Bohnenkamp and saw nothing in his hands. He yelled at Bohnenkamp, "Run! Get out of here!" To both men, Deputy Stotler again repeatedly identified himself as a deputy sheriff. He again ordered Bohnenkamp to leave, and again

ordered Deng to drop the knife. Neither of them complied. The two men remained facing one another in combat, their attention still focused on each other.

Bohnenkamp struck Deng on the side of the head with his fist, knocking Deng to the ground. Deputy Stotler stepped between Bohnenkamp and Deng, pointed his handgun at Deng and again ordered Bohnenkamp to leave. Bohnenkamp did not leave.

With his gun trained on Deng, Deputy Stotler said, "Drop the knife or I will shoot you!" Deng responded, "I don't care." Stotler and Deng repeated this exchange one or more additional times, with Deputy Stotler again warning Deng that he would shoot if Deng did not drop the knife, and Deng again responding, "I don't care."

Deng started to rise. Deputy Stotler again ordered, "Stop. Drop it!" Deng continued to his feet, still holding the knife. Deng began circling to his right, around Deputy Stotler's left, moving toward Bohnenkamp, who was standing to the left and behind Stotler. Deng was still holding the knife as he looked at and moved toward Bohnenkamp. Deng flexed and curled the wrist of his knife hand. Deputy Stotler, with his gun still aimed at Deng, again ordered him, "Drop it!" Deng continued to move around Stotler toward Bohnenkamp. When Deng was approximately five feet away from Bohnenkamp, Stotler saw Deng "tensing up, getting ready to stick him again." At that point, Deputy Stotler fired one round at Deng.

Struck in the abdomen, Deng immediately dropped to the ground and curled into a fetal position. Deputy Stotler reached the cell phone from his fanny pack, dialed 911, and requested emergency medical assistance for two persons, one with a gunshot wound and one with a stab wound.

The incident was witnessed, either in whole or in part, by at least a dozen observers. In addition to Deputy Stotler's initial radio transmission and subsequent 911 call, emergency calls were placed by two of these witnesses, using their cell phones before the shot was fired. The gunshot is audible on one of the recorded 911 calls at 7:17 p.m.

Six Iowa City Police Department squad cars and two ambulances responded to the scene. Each of the squad cars was equipped with a video camera and audio recorder, each of which was in operation at least from the moment at which they activated their emergency lights and sirens, throughout their response to the emergency. The first responding officer, Carlos Trevino, arrived at 7:18 p.m., forty-eight seconds after the dispatch, and fifty-four seconds after the shot was fired. The camera on Trevino's squad car, during arrival at the scene, recorded Deputy Stotler holding his wallet aloft,

displaying his badge. The second officer arrived at the scene at 7:19 p.m., seventy-one seconds after Trevino. Four other squad cars arrived within the next few minutes.

The first ambulance arrived at the scene and parked near Deng's body at 7:21 p.m., with a response time of four minutes. The second ambulance parked at the scene thirty seconds later.

The activities at the scene were continuously recorded on videotape from the arrival of Officer Trevino at 7:18 p.m. until 11:24 p.m., when Officer Trevino's recorder shut off. The tapes show that the officers and ambulance personnel provided medical attention to the two injured parties, with priority given to Deng, the apparently more seriously injured. During this activity, Officer Trevino is recorded kicking an object away from Deng, then gesturing to the crowd which was growing on the north side of Prentiss. He asked these persons to keep on the north side of the street until emergency medical personnel could carry out their duties and until the area could be taped off. He also asked for those who witnessed the incident to identify themselves and to wait for officers to take their statements.

### THE INVESTIGATION

Detectives from Iowa City Police Department and the Iowa Division of Criminal Investigation commenced an investigation immediately.

#### Examination of the Scene

315 E. Prentiss Street is the location of City Electric Supply. It has "head-in" parking in front of the business, on the north side, adjacent to Prentiss Street. Three cars were parked in this area. Two more cars were parked on the traveled portion of the street in front of City Electric, facing east. One car belonged to a witness who stopped on the street when he observed the altercation. Directly behind his car was Deputy Stotler's unmarked car.

Maiden Lane, an alley running north and south, borders City Electric on the east. This alley continues north of Prentiss Street, bordered on the east by rear entrances to restaurants and bars that front Gilbert Street, and bordered on the west by a public parking lot. Adjacent to the west of this parking lot is the Hawkeye Hideaway.

In the alley, adjacent to City Electric, were 4 garbage bags filled with empty bottles and cans. Also located on Prentiss Street in front of the alley were several empty bottles.

The scene was photographed, diagramed, and processed for evidence. As noted above, the video recorded on Officer Trevino's patrol car camera shows him kicking an item away from beside Deng's body. This item, a blood-stained knife, was recovered.

Also recovered was one shell casing and swabbings from several blood stains. Deputy Stotler's handgun was also immediately secured by Iowa City police.

#### Witness Interviews

Following the departure of the ambulances, officers passed out lined paper and asked those witnesses who had remained at the scene to write descriptions of what they had observed. Nine who identified themselves as witnesses complied. These witnesses included a nurse/counselor, a teacher, a property manager, two engineers, a youth program director, an account executive, a grain elevator operator, and a retiree. They ranged in age between 36 and 69 years. Four of these witnesses were operating vehicles in the vicinity when they first noticed the incident. A fifth was a passenger in one of these vehicles. Four others were pedestrians, two of them walking together from the Vine, another exiting the Vine by himself, and the other having stepped outside the Hawkeye Hideaway for a cigarette. None of these nine are acquaintances of Bohnenkamp, Deng, or Deputy Stotler. In addition, John Bohnenkamp and his wife Cynthia were interviewed.

As one would expect, these eleven reports are inconsistent in many of their details. They are consistent, however, in all important respects. None of them contradict Deputy Stotler's account in any significant matter.

None dispute, and most specifically observed, that 1) Deng and Bohnenkamp were fighting, 2) Deng displayed a knife, 3) Deng stabbed Bohnenkamp, 4) Deputy Stotler arrived, displayed his handgun and repeatedly identified himself as a deputy sheriff, 5) Stotler ordered the two to desist, 6) The two failed to obey Stotler and kept fighting, 7) Stotler attempted to intervene between the two, 8) Stotler ordered Deng to drop his knife, and 9) Deng refused Stotler's order.

One or more also verify, and none dispute, that 10) the three were within a few feet of one another, and 11) Deng was holding a knife and moving forward when Stotler shot him.

John Bohnenkamp was interviewed after undergoing surgery for his knife wound. He described the argument and altercation and Deputy Stotler's attempt to intervene. According to Bohnenkamp, in the moments immediately preceding the shooting, Stotler said, "Stand still, don't move, drop the knife." Deng then said to Bohnenkamp, "I am going to fucking kill you." They were within about 5-6 feet when "(Deng) raised his arm and bang." Bohnenkamp repeated that Deng "started to raise his arm and he shot him." Bohnenkamp reported feeling that Deng was coming at him again when he was shot.

The fact that Deng was displaying a knife at the time he was shot is also evidenced by the audiotape of a 911 call made by one of the witnesses during the

incident. On this tape, the caller's mention of a knife is heard seconds before the gunshot.

The above account, in general terms, was reported in local news media the following day, Saturday, July 25.

On the morning of Sunday, July 26, a story appeared on the front page of one area newspaper, under a headline reading, "Deputy shot man 'in cold blood': witness." The sub-heading read, "Homeless man did not threaten deputy, 2 witnesses say."

In contrast to the nine eyewitnesses mentioned above (not including Stotler and the Bohnenkamps), there were three additional witnesses who did not remain at the scene to give their statements. These three, who are coworkers at an Iowa City telemarketing company, were occupants of a vehicle that arrived from the south, via Maiden Lane, midway through the incident, while Deputy Stotler was already out of his car and attempting to intervene in the altercation.

Rather than wait at the scene after the shooting like the other witnesses, these three proceeded to the Old Capitol Brew Works to discuss the incident over beers. On Saturday morning, two of these three witnesses, Michael Tibbetts and Brock Brones, contacted a newspaper reporter and met jointly with the reporter to contradict the description published in that morning's news accounts.

After publication of the Sunday newspaper article, detectives contacted Tibbetts and Brones and scheduled separate appointments to interview each of them. Both Tibbetts and Brones failed to appear for their scheduled interviews.

The detectives then requested and obtained subpoenas. After being served, Tibbetts asked to postpone this proceeding. His request was denied. Under subpoena, both Tibbetts and Brones were separately questioned on July 28, 2009. During these interviews, the identity of the third occupant was reluctantly disclosed.

Tibbetts asserted that Deng was unarmed and retreating at the time he was shot. He unequivocally denied that Deng had a knife and asserted that he saw Deng with his arms stretched toward the sky and both palms open and empty. He claimed that he can say "with 100 percent certainty that he did not have a knife in his hand.... His palms were... wide open. He didn't have anything in his hands and then he got shot."

In contradiction to the witnesses who gave voluntary statements, Tibbetts also denied that Stotler identified himself as a Johnson County deputy sheriff.

Asked what happened after officers arrived, Tibbetts said, "They started giving themselves high fives." After explicitly repeating this claim, Tibbetts said, "They're all

looking at one another going, 'Nice shoot.'" Tibbetts also claims that after the shooting, Stotler "ran away, changed his clothes, and came back."

Asked why he did not report his observations to the uniformed officers, Tibbetts answered, "They didn't ask." Tibbetts specifically denied that an officer asked the crowd to stick around to give statements. Tibbetts stated, "I do recall that I did not see any of them speak to any people that were standing by, let alone me or anybody else.... We ran away because we didn't know that he was a policeman." Tibbetts claimed that they went directly to the bar, remained there for a few minutes, returned to the scene and watched for a while, then returned to the bar. Tibbetts also said that the ambulance response, "was longer than it should have been, in my opinion."

Brock Brones was also interviewed. Like Tibbetts, he claimed that Deng was unarmed. Brones, like Tibbetts, claimed that Stotler did not identify himself as an officer. Brones admitted that he did hear Stotler order Deng not to get up, and admits he heard him warn that he would shoot. Brones reports that Deng responded, "I don't give a fuck."

According to Brones, after the shooting they stood watching with the gathering crowd, and "we just kind of blended in with them." Brones claims that witnesses attempted to report their observations to officers, but that officers "ignored them and walked away." Asked why he did not give a statement to authorities, Brones explained, "I was just scared.... I was just intimidated and scared.... I didn't really want to get involved." Brones also claims that it was an unreasonably long time before either a squad car or ambulance arrived at the scene.

Like Tibbetts, Brones denies seeing any evidence that anyone was injured before the shooting. Like Tibbetts, Brones claims, "I didn't see the man ever have a knife and I didn't ever see him like try to attack the other guy, ever." Asked whether it was possible, Brones responded, "I mean we watched the whole thing. So, no, it's not possible."

Darrell Cathey was the third occupant of the car. He resisted efforts by officers to locate and interview him. Cathey attempted to hide from officers when they sought him at both his residence and place of employment. After they finally located him, he threatened to leave town rather than meet with detectives. Ultimately, however, he was served a subpoena and gave a statement. In his statement, Cathey admitted that he was driving the car in which Brones and Tibbetts were riding, but repeatedly stated, "I do not recall," when asked if he saw any part of the incident.

#### Forensic Autopsy

The shot entered Deng's left arm, exited the arm and entered his left abdomen. The bullet severed a major artery. The wound was immediately incapacitating and inevitably fatal.

Toxicology showed no illegal substances in Deng's blood, but did show a significantly elevated blood alcohol count of .295 percent.

#### DCI Laboratory Examinations

Blood was found on the blade of the knife recovered from the scene. DNA analysis showed that this blood matches the known blood of John Bohnenkamp. No fingerprints suitable for identification were found on the knife.

The handgun was a Glock 22, 40. caliber in good condition.

#### Deputy Terry Stotler Background

Deputy Stotler's personnel file was examined.

He has an unbroken record of satisfactory performance in firearms training and is qualified in the use of a handgun.

Deputy Stotler has had no disciplinary reports, either major or minor, during the course of his 24-year career.

#### John Bior Deng Background

John Deng's license indicates a birthdate of January 1, 1983, but in all likelihood, he did not know his actual birth date. He is one of a group of south Sudanese Dinka tribesmen known as "The Lost Boys of Sudan," who suffered extraordinary mortality and hardship in their odyssey to America, which they began as child orphan victims of tribal and religious genocide during the 1980s. He entered the United States in 2001 under refugee status, initially residing in Fort Worth, Texas.

According to compatriots in Omaha, Deng had reduced contact with them in recent years. He had numerous alcohol-related contacts with Iowa City law enforcement beginning in June, 2007. At the time of his death he was residing in a transient camp near the old Iowa City animal shelter at Kirkwood and Clinton Streets.

#### LAW

A person is justified in the use of deadly force to defend against the use of deadly force against himself or another. A knife, when used as a weapon to stab another person, creating a substantial risk of death, permanent disfigurement, or protracted impairment of any bodily member or organ, is deadly force.



## SUMMARY

The physical evidence, the contemporaneously recorded 911 calls, and the statements of the eleven eyewitnesses who cooperated with the investigation, are consistent with, and corroborate Deputy Stotler's statement. Nothing in any of that evidence contradicts any significant aspect of Deputy Stotler's account of events.

The only evidence inconsistent with Stotler's account are the colluded statements of Brones and Tibbetts.

Despite the fact that they both admit that they did not arrive until after Deputy Stotler was already attempting to quell the altercation, both Tibbetts and Brones assert that Deputy Stotler never announced himself as a peace officer. This claim is contradicted by every witness who was present when Stotler first arrived at the scene. Each of these witnesses verifies that Deputy Stotler loudly and repeatedly identified himself as a deputy sheriff. The fact that he identified himself as an officer was also mentioned by one of the 911 callers before the shot was fired.

Tibbetts and Brones claim that Deng had no weapon. This claim is refuted by the other eyewitnesses, by a contemporaneously recorded 911 call, and by the blood-stained knife itself.

Tibbetts and Brones claim that Bohnenkamp was not injured. This claim is refuted by the other eyewitnesses and by Bohnenkamp's actual injury, a serious knife wound that required emergency surgical treatment. Moreover, DNA analysis found Bohnenkamp's blood on the blade of Deng's knife.

Both Tibbetts and Brones claim that police officers who responded to the emergency did not solicit statements from eyewitnesses, and even resisted attempts of eyewitnesses to provide statements. This allegation is refuted by the fact that statements were in fact obtained immediately following the incident from nine eyewitnesses who remained at the scene.

Nor are Tibbetts' and Brones' various other accusations believable. None of the six squad car videotapes, which ran at the scene continuously for over four hours, show officers "high fiving," and none of the other witnesses noticed any such bizarre conduct. The claim that Stotler left and returned after changing his clothing is disproved by the squad car videotapes, which show him immediately after the shooting in the same clothing in which he later underwent questioning by detectives.

Given the lack of candor that Tibbetts and Brones displayed in resisting official efforts to interview them, given their unconcealed hostility toward all of the official personnel, and given the weight of evidence that disproves their accusations, it would be

inappropriate to attach any credence to their statements. Viewing Tibbetts' and Brones' statements in the most charitable light, they are not credible.

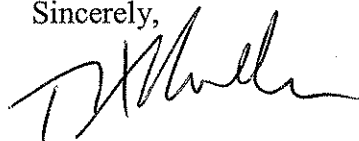
#### CONCLUSION

The evidence establishes that Deputy Stotler, at the moment that he discharged his handgun, reasonably believed that John Deng was within an instant of stabbing John Bohnenkamp a second time. It was apparent that Deng had already stabbed Bohnenkamp once. When Deputy Stotler ordered him to drop his knife, Deng refused to do so, and made a statement indicating that he had no fear of Stotler's handgun. By one account, Deng announced his intention to kill Bohnenkamp, and by all accounts he was displaying great anger.

Despite the fact that there was literally a "policeman at the elbow," Deng was holding the knife in a threatening manner and was advancing toward Bohnenkamp. Had Deputy Stotler failed to intervene with deadly force at that point, he would today likely be facing equally grave questions about his conduct.

Deputy Stotler's description of events is corroborated by credible witnesses and by the available physical evidence. There exists no credible evidence to contradict any portion of his description of events. Having concluded that Deputy Stotler acted with justification, I am closing my file without further action.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. H. Miller', written in a cursive style.

THOMAS HENRY MILLER  
Deputy Attorney General